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Attorney for the Department of Insurance

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA**

IN THE MATTER OF AMERICAN TRADE)	CAUSE NO. INS-2010-01
ASSOCIATION, INC.; BEEMA-PAKISTAN)	
COMPANY LTD.; SERVE AMERICA;)	TEMPORARY ORDER TO CEASE
ASSURANCE, LTD.; SMART DATA)	AND DESIST AND
SOLUTIONS LLC; REAL BENEFITS)	OPPORTUNITY FOR HEARING
ASSOCIATION; SUPERIOR HEALTH)	
BENEFITS, a.k.a CRITICAL HEALTH CARE,)	
a.k.a. CRITICAL HEALTH PLUS;)	
<u>PREMIERHEALTHCAREONLINE.COM;</u>)	
)	
Unauthorized Entities; and)	
)	
WILLIAM WORTHY II; COLIN JACK)	
YOUELL; DAVID L. CLARK; BART POSEY;)	
RICHARD H. BACHMAN; OBED)	
KIRKPATRICK; JASON WINGROVE; and)	
WALTER R. CECCHINI JR.; individually)	
and/or as present or former officers directors,)	
principals or agents of the above-named entities,)	
)	
Respondents.)	
)	

The Montana Commissioner of Securities and Insurance, office of the State Auditor (CSI), pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, *et seq.*, hereby sets forth the following allegations of fact, conclusions of law, order to cease and desist, and notice of right to a hearing:

ALLEGATIONS OF FACT

1. Respondent American Trade Association Inc. ("ATA") is a corporation formed under the laws of Indiana and has its principal place of business in Springfield, Tennessee. ATA is also an Arkansas limited liability company.
2. Respondent Beema-Pakistan Company Limited ("Beema") is believed to be a foreign corporation with its principal place of business in Karachi, Pakistan.
3. Respondent Serve America Assurance Ltd. ("Serve America") is a foreign, Bermuda corporation, and a captive insurance company wholly owned by Beema-Pakistan Company Limited, Ltd. Respondents' fulfillment packages given to Montana consumers indicated that Serve America was the insurer underwriting the Respondents' product.
4. Respondent Smart Data Solutions LLC ("SDS") is a Tennessee limited liability company with its principal place of business in Springfield, Tennessee. SDS and its principals have previously come to the attention of the CSI due to its involvement in with the National Alliance of Associations.
5. Respondent Real Benefits Association ("RBA") is a foreign corporation with its principal place of business located in New York, New York.
6. Respondent Superior Health Benefits is a boiler-room solicitor entity that fax-blasted a Montana consumer and solicited the ATA product.
7. Premierhealthcareonline.com was, at all times material hereto, a website used by ATA to solicit its products to Montana consumers.
8. Respondent William Worthy II is an officer of Serve America and was once an officer of the association known, at material times, as ATA.
9. Respondent Colin Jack Youell is a director of Beema.
10. Respondent David L. Clark is the chairman and president of RBA.

11. Respondent Bart Posey, Richard H. Bachman, and Obed Kirkpatrick are officers of ATA and SDS.

12. Respondent Jason Wingrove is an unlicensed producer who solicited the ATA product for Superior Health Benefits.

13. Respondent Walter R. Cecchini Jr. was formerly the director and president of the association known, at times material hereto, as ATA, and who aided and facilitated the Respondents by providing them with the association. Walter R. Cecchini Jr. has previously come to the attention of CSI due to his involvement with National Alliance of Associations, United National Workers Association, and Consolidated Workers Association.

14. The Respondents acted in concert to market and sell a bundled product consisting of insurance and medical care discount card products to at least eleven Montana insurance consumers between September of 2009 and February 23, 2010.

15. The Respondents marketed their products through unsolicited fax blasting, internet websites and other means to Montana insurance consumers. Respondents marketed their products in a manner that led Montana insurance consumers to believe that the product constituted major medical or comprehensive health insurance when, in fact, it did not. Respondents used pressure sales tactics and took enrollment fees and premiums from Montana consumers through direct withdrawals.

16. None of the Respondents have been granted certificates of authority to transact insurance in Montana. None of the Respondents have been granted certificates of registration to solicit and sell medical care discount cards. None of the Respondents are licensed insurance producers in Montana. None of the Respondents are licensed as administrators in Montana.

CONCLUSIONS OF LAW

1. The State Auditor is the Commissioner of Insurance ("CSI"). Mont. Code Ann. § 2-15-1903.
2. The Montana Insurance Department is under the control and supervision of the CSI. Mont. Code Ann. §§ 2-15-1902 and 33-1-301.
3. The CSI has jurisdiction over this matter. Mont. Code Ann. § 33-1-311.
4. The CSI shall administer the Insurance Department to protect insurance consumers. Mont. Code Ann. § 33-1-311(3).
5. A person or entity may not transact a business of insurance in Montana or a business relative to a subject resident, located, or to be performed in Montana without complying with the Montana Insurance Code. Mont. Code Ann. § 33-1-102(1)
6. Insurance is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies. Mont. Code Ann. § 33-1-201(5).
7. Respondent's non-medical care discount card component of its bundled product constitutes insurance because the product purports to indemnify ATA and RBA members or pay members a specified or determinable amount or benefit upon determinable contingencies.
8. No person or entity shall act as an insurer and/or transact insurance in Montana except as authorized by a certificate of authority issued by the CSI. Mont. Code Ann. § 33-2-101.
9. "Person" includes an individual, insurer, company, association, organization, Lloyd's, society, reciprocal or interinsurance exchange, partnership, syndicate, business trust, corporation, or any other legal entity. Mont. Code Ann. § 33-1-202. Each of the Respondents are persons as defined by Mont. Code Ann § 33-1-202.

10. An insurer includes every person or entity engaged as an indemnitor, surety, or contractor in the business of entering into contracts of insurance. Mont. Code Ann. § 33-1-201(6). Serve America acted as an insurer because it received consideration for and promised to pay ATA and RBA members' medical expenses in the event of certain contingencies.

11. "Transact," with respect to insurance, includes any of the following: (a) solicitation and inducement; (b) preliminary negotiations; (c) effectuation of a contract of insurance; or (d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it. Mont. Code Ann. § 33-1-201.

12. The Respondents transacted insurance in Montana by soliciting sales through mass faxing and the internet, negotiating sales of the ATA and RBA products, accepting consideration in exchange for the ATA and RBA products, and sending insurance identification cards and membership materials to purchasers.

13. By acting as insurers and transacting insurance in Montana without a certificate of authority, Serve America and Beema have committed multiple violations of Mont. Code Ann. § 33-2-101.

14. No person may directly or indirectly act as an insurance producer for, or otherwise represent or aid on behalf of another, any insurer not authorized to transact insurance in this state in the solicitation, negotiation, or effectuation of insurance contracts, inspection of risks, fixing of rates, investigation or adjustment of losses, collection of premiums, or any other transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state. Mont. Code Ann. § 33-2-104.

15. By representing or aiding an unauthorized insurer, ATA, RBA, and SDS and their officers, directors, principals and agents have committed multiple violations of Mont. Code Ann. § 33-2-104.

16. By representing or aiding an unauthorized insurer, Walter R. Cecchini, Jr. violated Mont. Code Ann. § 33-2-104.

17. A person may not sell, solicit, or negotiate insurance or act as an insurance producer in this state unless licensed as an insurance producer under Chapter 17 of the Insurance Code. Mont. Code Ann. § 33-17-201.

18. By selling, soliciting, and negotiate insurance without licenses the Respondents have committed multiple violations of Mont. Code Ann. § 33-17-201.

19. A person may not act as or represent to the public that the person is an administrator in this state unless the person holds a certificate of registration as an administrator. Mont. Code Ann. § 33-17-603.

20. By acting as an administrator without a certificate of registration SDS has committed multiple violations of Mont. Code Ann. § 33-17-603.

21. A medical care discount card supplier may not market, promote, sell, or distribute a medical care discount card in this state unless the supplier holds a certificate of registration as a supplier issued by the CSI. Mont. Code Ann. § 33-38-105(1).

22. "Medical care discount card supplier" means a person engaged in selling or furnishing, either as principal or agent, for consideration, one or more medical care discount cards to another person or persons. Mont. Code Ann. § 33-38-102.

23. "Medical care discount card" means a paper or plastic device or other mechanism, arrangement, account, or other device that does not constitute insurance, as defined in § 33-1-201, that purports to grant, for consideration, a discount or access to a discount in a medical care-related purchase from a health care provider. Mont. Code Ann. § 33-38-102.

24. Respondents are medical discount card suppliers who have committed multiple violations of Mont. Code Ann. § 33-38-105(1) by marketing or promoting a medical care discount card plan in the state of Montana without first applying for and receiving a certificate of registration.

CEASE AND DESIST ORDER

Pursuant to Mont. Code Ann. § 33-1-318, it appears to the Department that the above-named Respondents have engaged, are engaged, or are about to engage in acts or practices constituting violations of the Montana Insurance Code including engaging in or transacting the unauthorized business of insurance and the offering of medical care discount cards in violation of Montana Code Ann. § 33-1-101 *et seq.*,

1. Therefore, it is hereby ORDERED that the Respondents shall immediately cease and desist from:

a. engaging or transacting the business of insurance and the offering of medical discount card products including the collection of premiums or other consideration, issuance of insurance and insurance-related products, advertising to or soliciting Montana residents by email, facsimile, telephone, mail, internet or any other means so as to induce Montana residents to purchase any form of insurance or medical care discount card product under any of the identified business organizational titles or under any other name or organization;

b. participating directly or indirectly in any act of an insurance producer or insurance company in soliciting insurance business in the state of Montana; and

c. engaging in other any act, practice or course of business that violates any section of the Montana Insurance Code.

2. It is further ORDERED that Respondents shall within 20 days from receipt of this Order provide the Department with:

a. a complete list of all Montana residents who received any insurance policy, plan, related solicitation, or medical care discount card product or solicitation from Respondents for the last five years that includes full contact information, a statement of claims made whether paid or denied, and the total amount of premiums, fees or other consideration collected from sales within the state of Montana;

b. scripts, orders, outlines, or other marketing materials used to solicit insurance and/or medical care discount card products via the telephone, mail, and the internet;

c. a complete list of the names and contact information of any and all insurers which Respondents claim to have represented in Montana solicitations as well as copies of any applications and contracts made with those insurers;

d. a complete list of all enrollers or solicitors that includes company and individual names, telephone numbers used, and addresses;

e. a list of all entities or organizations, including medical providers and provider networks, with which Respondents have contracted to provide insurance or discount services together with copies of any and all contracts made with the same and complete contact information for the entities and individuals involved; and

f. a full accounting of all transactions involving Montana consumers together with bank records purporting to support the accounting;

3. It is further ORDERED that Respondents shall:

a. Pay all valid claims for benefits when due for coverage on Montana residents or issued to employers doing business in Montana. If refunds have already been provided pursuant to Paragraph b below at the time the claim is processed, they may be offset from the reimbursement.

b. Send full refunds, no later than May 15, 2010, of all premiums, fees, and other consideration paid for insurance coverage and related services to all Montana consumers, all

employers doing business in Montana, and all individuals who have purchased coverage in the course of their employment in Montana from or through any or all of the Respondents or entities affiliated with or under contract with any Respondent. To the extent that claims have already been paid at the time the refund is processed, they may be offset from the refund.

4. Respondents shall remain liable for the full performance of all contracts with Montana consumers to the full extent of their claims, including consequential damages. This Order is effective immediately and shall continue in full force and effect until further order of the CSI. This Order is binding on Respondents, their agents, affiliates, employees, and/or other representatives, both current and successor, whether named or unnamed herein.

PENALTIES

Pursuant to Mont. Code Ann. § 33-1-318 , a violation of this Order is a separate violation for which the CSI may impose a fine not to exceed \$5,000 per violation in addition to other penalties imposed by law.

NOTICE OF RIGHT TO HEARING

You are entitled to a hearing and to respond to this Temporary Cease and Desist Order and to present evidence and arguments on all issues involved in this case. If you wish to contest the allegations herein, you must make a written request for a hearing within 15 days of receipt of this Order to Michael Winsor, Staff Attorney, State Auditor's Office, 840 Helena, Avenue, Helena, MT 59601. The hearing shall then be held within 20 days of the CSI's receipt of the hearing request, unless the time is extended by agreement of the parties. If you do not request a hearing and the CSI orders none, this Order shall become permanent, and the above allegations will be declared the findings of fact and the above conclusions of law will be declared the final conclusions of law.

Should you request a hearing, you have the right to be accompanied, represented and advised by an attorney. If the attorney you choose has not been admitted to the practice of law in the state of

Montana, she or he must comply with the Montana State Bar for appearing *pro hac vice* and the requirements of *Application of American Smelting and Refining, Co.*, 164 Mont. 139, 520 P.2d 103 (1973) and *Montana Supreme Court Commission on the Unauthorized Practice of Law v. O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200 (2006). If you request a hearing, you will be given notice of the date, time, and place of the hearing.

DATED this 12th day of April, 2010.

MONICA J. LINDEEN
Commissioner of Securities and Insurance
Office of the State Auditor

By: Robert W Moon
ROBERT W. MOON
Deputy Commissioner of Insurance

CERTIFICATE OF SERVICE

I certify that this 12th day of April, 2010, a true and correct copy of the foregoing Temporary Order to Cease and Desist and Opportunity for Hearing was served on the following by certified mail or by registered mail (outside of U.S.) with postage prepaid and return receipt requested, *to wit*:

By Certified Mail:

American Trade Association, Inc.
4676 Highway 41 North
Springfield, TN 37172

American Trade Association, Inc.
400 Memorial Boulevard
Springfield, TN 37172

American Trade Association, Inc.
756 N. Main Street, Ste. K
Crown Point, IN 46307

Beema-Pakistan Company, Ltd.
117 Winding Oak Way
Blythewood, SC 29016

Serve America Assurance, Ltd.
117 Winding Oak Way
Blythewood, SC 29016

William Worthy II
44 Morgan Place Dr.
Isle of Palms, SC 29451

William Worthy II
117 Winding Oak Way
Blythewood, SC 29016

Smart Data Solutions, LLC
4676 Highway 41 North
Springfield, TN 37172

Smart Data Solutions, LLC
400 Memorial Boulevard
Springfield, TN 37172

Real Benefits Association
118 A Fulton Street
P O Box 138
New York, NY 10038

Real Benefits Association
P O Box 74
Basking Ridge, NJ 07920

Superior Health Benefits
1166 Mill Street
Reno, NV 89502

Colin Jack Youell
117 Winding Oak Way
Blythewood, SC 29016

David L. Clark
118 A Fulton Street
P O Box 138
New York, NY 10038

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Springfield, TN 37172

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2332 Galiano Street
2nd Floor, Ste. 2007
Coral Gables, FL 33134

Obed Kirkpatrick
4676 Highway 41 North
Springfield, TN 37172

Jason Wingrove
c/o Superior Health Benefits
1166 Mill Street
Reno, NV 89502

Walter R. Cecchini Jr.
3800 North Ocean Drive #1050
Singer Island, FL 33404

By Registered Mail:

Beema-Pakistan Company, Ltd.
412-427, 4th Floor
Muhammadi House
I.I. Chundrigar Road
P. O. Box 5626
Karachi-74000, Pakistan


State Auditor's Office